

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q85108

Tomohiro TSUJI, et al.

Appln. No.: 10/517,422

Group Art Unit: 1657

Confirmation No.: 4344

Examiner: Amanda P. Wood

Filed: February 28, 2005

For: METHOD OF CLASSIFYING AND COUNTING LEUCOCYTES

REQUEST FOR REFUND

MAIL STOP 16

Director of the U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby respectfully requests a refund in the amount of \$1,520.00. This refund is to be credited to Deposit Account No. 19-4880.

This request is made in view of the fact that Applicant had timely filed (electronically) a Response Under 37 C.F.R. § 1.116 on July 10, 2008, and yet as the final due date of October 10, 2008, was approaching, no further Action (Notice of Allowance, Advisory Action, or new Office Action) had been issued by the USPTO. Although the Response had been filed electronically, it appears from the USPTO's Transaction History that the Office Action was not electronically forwarded to the Examiner until July 28, 2008. The undersigned attorney has been advised by multiple U.S. Patent Examiners that the Examiner is supposed to act on a response to a final Office Action within 10 days of receipt. In the present case, the delay in the USPTO was much longer, to Applicant's detriment.


As the final due date of October 10, 2008, approached, Applicant's attorney called the Examiner's office and left several messages requesting information on the status of review and further action, and furthermore Applicant's attorney telephoned Supervisory Patent Examiner Jon Weber on October 9, 2008, requesting his assistance. Upon discussing the case subsequently with Examiner Wood on October 9, 2008, Examiner Wood advised the undersigned attorney that she had earlier prepared on a new Office Action citing a new reference, and Examiner Wood indicated surprise that the USPTO's clerical staff had not yet processed and mailed the new Office Action.

Examiner Wood made further extensive efforts on October 10, 2008, to provide information on the new Office Action, but was not able to confirm that it had been mailed by the USPTO staff.

However, in the absence of receipt of evidence of mailing of the Office Action intended to be issued by the Examiner by October 10, 2008, Applicant filed a Notice of Appeal and a Petition for Extension of Time. Attached are copies of the Electronic Filing Receipt showing the Fee Transmittal for the filing of October 10, 2008.

Under the totality of the circumstances reported above, Applicant respectfully requests a refund of the fees that became necessary due to unreasonable delays in the USPTO (viz., \$1520.00 = \$1650.00 - \$130.00), i.e., all fees that became necessary except the first month extension of time).

Respectfully submitted,


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WASHINGTON OFFICE
23373
CUSTOMER NUMBER

Date: November 7, 2008

Electronic Acknowledgement Receipt

EFS ID:	4099248
Application Number:	10517422
International Application Number:	
Confirmation Number:	4344
Title of Invention:	Method of classifying counting leukocytes
First Named Inventor/Applicant Name:	Tomohiro Tsuji
Customer Number:	23373
Filer:	Joseph J. Ruch/Barbara Benzle
Filer Authorized By:	Joseph J. Ruch
Attorney Docket Number:	Q85108
Receipt Date:	10-OCT-2008
Filing Date:	28-FEB-2005
Time Stamp:	18:23:22
Application Type:	U.S. National Stage under 35 USC 371

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	\$1650
RAM confirmation Number	3500
Deposit Account	194880
Authorized User	

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
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1		Notice of Appeal.PDF	0085 FF14877A3C78646BDDCC832457825190 1a1b	yes	2
Multipart Description/PDF files in .zip description					
		Document Description	Start	End	
		Extension of Time	1	1	
		Notice of Appeal Filed	2	2	
Warnings:					
Information:					
2	Fee Worksheet (PTO-06)	fee-info.pdf	31909 4C26D46232BCC0F0B6F57B19B02F88A 17392	no	2
Warnings:					
Information:					
Total Files Size (in bytes):			91994		
<p>This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.</p> <p><u>New Applications Under 35 U.S.C. 111</u> If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.</p> <p><u>National Stage of an International Application under 35 U.S.C. 371</u> If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.</p> <p><u>New International Application Filed with the USPTO as a Receiving Office</u> If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.</p>					